



## Office of the Attorney General

State of Texas

February 11, 1998

DAN MORALES  
ATTORNEY GENERAL

Ms. Barbara G. Heptig  
Assistant City Attorney  
City of Arlington  
P.O. Box 231  
Arlington, Texas 76004-0231

OR98-0424

Dear Ms. Heptig:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 112825.

The City of Arlington (the "city") received a request for the entire report and copies of suicide letters in regard to a particular incident. You submitted the information at issue to this office for review, and assert that portions of the report and all of the letters are confidential under common-law privacy as protected under section 552.101 of the Government Code.

You inform us that the requestor is the spouse of the person whose privacy interests are at issue. For purposes of this ruling, we assume that the requestor is not the authorized representative of her spouse. We note that if the requestor is the authorized representative, the information at issue may not be withheld from disclosure pursuant to section 552.023 of the Government Code, which provides, in part:

(a) A person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests.

(b) A governmental body may not deny access to information to the person, or the person's authorized representative, to whom the information relates on the grounds that the information is considered confidential by privacy principles under this chapter but may assert as grounds for denial of access other provisions of this chapter or other law that are not intended to protect the person's privacy interests.

Assuming that section 552.023 is inapplicable, we will address your argument that section 552.101 protects the information from disclosure. As previously discussed, Section

552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by constitutional or common-law privacy and under certain circumstances excepts from disclosure private facts about individuals. *Industrial Found. of the S. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Information must be withheld from public disclosure under a common-law right of privacy when the information is (1) highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 (1992) at 1.

This office has found that the following types of information are excepted from required public disclosure under constitutional or common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps), and personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990), and information concerning the intimate relations between individuals and their family members. *See* Open Records Decision No. 470 (1987). We have reviewed the submitted report and letters and conclude that the information must be withheld in its entirety.<sup>1</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/ch

Ref: ID# 112825

Enclosure: Submitted documents

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<sup>1</sup>We note that de-identifying the records and releasing some portions of the report would not effectively protect the privacy interests of the individual in this situation, since the requestor is aware of the individual's identity.